

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
BANK OF MONTREAL,

Plaintiff,

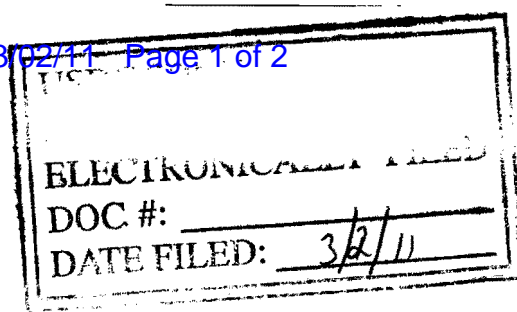
-against-

OPTIONABLE, INC., et al.,

Defendants.
-----XORDER

09 Civ. 7557 (GBD) (JLC)

(ECF Case)

**JAMES L. COTT, United States Magistrate Judge.**

By Order dated February 17, 2011, the Court directed Mark Nordlicht and certain non-parties (the "Nordlicht Parties")¹ to make an initial production of documents by February 25, 2011, and to supplement each production not more than two weeks from the preceding production, until all such documents have been produced.

In a letter dated February 28, 2011, plaintiff Bank of Montreal ("BMO") requests a pre-motion conference to address the Nordlicht Parties' purported "failure to comply in good faith" with the February 17 Order. BMO states that the initial production by the Nordlicht Parties consisted of only two documents. In a letter dated the same day, the Nordlicht Parties respond that they have produced "all documents contained in paper form by defendant Nordlicht," and that the non-parties possess no responsive documents in hard copy form. The Nordlicht Parties further advise that they are in the process of gathering electronic documents, intend to make a supplemental production on March 11, 2011, and that such production likely will not be its last.

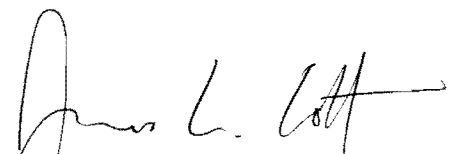
Having received the Nordlicht Parties' explanation for its prior and anticipated production, the Court declines to schedule a pre-motion conference at this time with respect to the instant dispute.

¹ The Court is cognizant that counsel takes issue with "lumping together" these non-party defendants, each of whom, it is alleged, have independent defenses and objections. See Letter from Jason Gottlieb to the Court, dated February 28, 2011 at 1, n.1. The Court uses "the Nordlicht Parties" simply as a useful shorthand for purposes of this Order.

Counsel are reminded that they should meet and confer before any discovery dispute is brought to the Court's attention.

SO ORDERED.

Dated: New York, New York
March 2, 2011



JAMES L. COTT
United States Magistrate Judge

Copies of this Order have been sent by ECF to the following:

Hon. George B. Daniels

All Counsel of Record